

Preliminary Exposure Draft

For Comment and Review

Text of Model Cooperative Conversion Law

1. This Law shall be known as “The Continuing Care Retirement Community Cooperative Conversion Act” and may be referred to as the CCRC Coop Act.
2. The Legislature finds that it is in the public interest to encourage Continuing Care Retirement Communities as a desirable living option allowing older Citizens of this State to age with dignity in the security of a dedicated campus environment.
3. The legislature finds that it is desirable that residents of a Continuing Care Retirement Community (CCRC), like many participants in a Continuing Care At Home (CCAH) program, continue to be fully empowered as human beings and as owners of the homes in which they reside.
4. The legislature further finds that cooperative ownership is best suited to the lifetime residence provided by CCRCs since the transfer of a residence after death can be accomplished more smoothly than with condominium or fee simple ownership.
5. A cooperatively owned CCRC on and after the effective date of this Act shall provide that shares in the cooperative corporation may only be sold to the corporation at a price to be determined by an annual appraisal by a qualified appraiser approved by the Regulator. Any shares held by a non-resident pursuant to an estate settlement or through any other transaction, including continuing ownership of shares by the sponsor, shall have no voting rights in the cooperative corporation and may only be sold back to the corporation. Shares allocated to particular residential units for new residents shall only be issued from the treasury of the cooperative corporation and shall be purchased at a price as determined by the annual appraisal described above.
6. No existing CCRC shall be converted to cooperative ownership, and no new cooperatively owned CCRC shall be opened to occupancy, except on the basis of an Offering Statement or Prospectus filed by the sponsor with the

State agency responsible for Securities Regulation, hereafter "Regulator", or such other State agency as the Regulator may designate. All other requirements of the state relating to cooperatively owned dwelling units shall also apply to a cooperatively owned CCRC.

7. The Regulator shall refuse to issue a letter declaring that the required Offering Statement or Prospectus is effective unless:

- (a) The plan provides that it will be deemed abandoned, void and of no effect if it does not become effective within fifteen months from the date of issue of the letter of the Regulator stating that the offering statement or prospectus has been accepted for filing and, in the event of such abandonment, no new plan for the conversion of such building or group of buildings or development shall be submitted to the Regulator for at least twelve months after such abandonment.
- (b) The plan must provide as follows:
 - (i) The plan may not be declared effective until written purchase agreements have been executed and delivered for at least thirty-five percent (35%) of all dwelling units in the CCRC subscribed for by bona fide residents in occupancy at the time plan is declared effective. As to residents who were in occupancy on the date a letter was issued by the Regulator accepting the plan for filing, the purchase agreement shall be executed and delivered pursuant to an offering made without discriminatory repurchase agreements or other discriminatory inducements.
 - (ii) No eviction proceedings will be commenced at any time against non-purchasing residents for failure to purchase; provided that such proceedings may be commenced for good cause in accordance with the terms of the resident's contract for non-payment of contractually required fees, illegal use or

occupancy of the premises, refusal of reasonable access to the owner or a similar breach by the non-purchasing resident of his or her obligations to the owner of the dwelling unit or the shares allocated thereto; and provided further that an owner of a unit or of the shares allocated thereto may not commence an action to recover possession of a dwelling unit from a non-purchasing resident until such unit becomes available in the normal course of the resident's contract.

- (iii) All resident contracts governing occupancy shall continue to be in full force and effect for their entire term regardless of whether a resident subscribes to the purchase agreement or not.
- (iv) The fees of non-purchasing tenants shall not be subject to unconscionable increases beyond ordinary increases for comparable apartments during the period of their occupancy. In determining comparability, consideration shall be given to such factors as facility and care services, other amenities, and level of maintenance and operating expenses.
- (v) The rights granted under the plan to purchasers under the plan and to non-purchasing tenants may not be abrogated or reduced notwithstanding any expiration of, or amendment to, this section.
- (vi) The sponsor of a conversion plan shall be entitled to no more than one seat on the Board, which shall consist of not more than nine members, and the sponsor shall also have the right to name the Managing Agent, until such time as more than fifty percent (50%) of the dwelling units are occupied by the person or persons owning the shares allocated to such unit. Thereafter, the sponsor shall have no rights other than those applying to shareholders in the cooperative corporation and

the voting shareholders can change the size of the Board as they see fit.

- (vii) After the issuance of the letter from the Regulator stating that the required offering statement or prospectus has been filed, the offeror shall, on the thirtieth, sixtieth, eighty-eighth and ninetieth day after such date and at least once every thirty days until the plan is declared effective or is abandoned, as the case may be, and on the second day before the expiration of any exclusive purchase period provided in a substantial amendment to the plan,
 - (1) File with the Regulator a written statement, under oath, setting forth the percentage of the dwelling units in the building or group of buildings or development subscribed for by bona fide residents in occupancy as of the date of such statement and,
 - (2) Before noon on the day such statement is filed post a copy of such statement in a prominent place accessible to all residents in each building covered by the plan.

8. This law shall be effective immediately upon enactment.